

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO.: H-11-722
	§	
ABRAHAM M. FISCH	§	

MOTION FOR STAY PENDING APPEAL

TO THE HONORABLE DISTRICT COURT JUDGE:

Now comes, Abraham M. Fisch, Defendant herein, and files this Motion for Stay Pending Appeal, and respectfully shows the court as follows:

I.

1. In October 2011, the government obtained an indictment charging Fisch with conspiracy under 18 U.S.C. §371, obstruction of justice under 18 U.S.C. §1503, money-laundering conspiracy under 18 U.S.C. §1956(h), money laundering under 18 U.S.C. §§1957, 2, and failure to timely file a tax return under 26 U.S.C. §7203. That indictment included a notice of criminal forfeiture, which identified Fisch's home as forfeitable under 18 U.S.C. §981 and 28 U.S.C. §2461 as proceeds traceable to the conspiracy, obstruction of justice, money-laundering conspiracy, and money laundering counts. Later that same month, the government recorded a *lis pendens* in Harris County on that property without any probable cause determination as required.

2. Fisch filed a Motion to lift the *lis pendens* and requested a hearing to determine whether there was probable cause to believe the subject assets were forfeitable. In August 2013, the court ordered Fisch to provide an affidavit regarding his financial inability to retain an attorney. Over objection, Fisch provided the Court with an affidavit regarding his financial status and assets for in camera inspection.

3. On October 24, 2013 this Court denied the Motion; Fisch filed a Motion for Reconsideration which was also denied. Thereafter Fisch filed an Amended Motion to Lift Lis Pendens and for Traceability Hearing and provided additional financial information under seal for in camera review. At a status conference on February 25, 2014 the Court raised concerns about Fisch's tax liabilities reflected in the financial information provided and directed Fisch to resubmit the financial information filed under seal as parts of it were illegible and advised that the same information filed under seal would be provided to the Government for their response as to the effect of Fisch's tax liabilities and whether his assets if unrestrained would be impacted by such tax liability.

4. On March 18, 2014 the Court denied Fisch's Amended Motion and directed that if Fisch did not resubmit the financial information filed under seal for the Court and the Government to review the court would no longer consider the issue. On March 26, 2014 Fisch filed a Notice of Interlocutory Appeal. Fed. R. Civ. Proc. 8(a) provides a party must first move for stay of a district court order in the district court before filing any such motion in the Appellate Court. Accordingly, Fisch moves to stay the Court's March 18, 2014 Order (doc #119) and these proceedings pending the resolution of the interlocutory appeal.

WHEREFORE, premises considered, Fisch prays the court will grant the relief requested and for all other and further relief, at law or in equity, to which he may be justly entitled.

Respectfully submitted this the 7th day of April, 2014.

/S/ Abraham M. Fisch_____

Abraham M. Fisch
922 Columbia Street
Houston, Texas 77008
State Bar No.: 07039900
Tel: 713/222-8777

Fax: 713/222-7556

CERTIFICATE OF SERVICE

This is to certify that on the 7th day of April, 2014, I electronically filed the foregoing with the clerk of the court using the CM/ECF system which will send notification of such filing to counsel of record:

Robert Johnson
Assistant United States Attorney
Attorney for United States

/S/ Abraham M. Fisch_____
ABRAHAM M. FISCH